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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

MARK RAY TRICE,

Civ. No. 07-625 CL

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION**

v.

**BRIAN BELLEQUE, Superintendent,
Oregon State Penitentiary,**

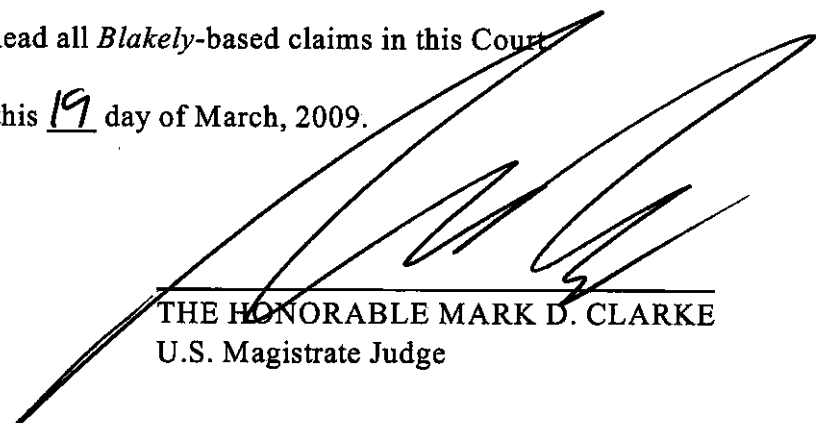
Respondent.

This matter having come before the Court on the motion of the petitioner to voluntarily dismiss his habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 542 U.S. 296 (2004), is later made retroactive to cases on collateral review, petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from the date

this Order is signed until sixty (60) days after the date of the decision rendering *Blakely* retroactively applicable. If *Blakely* is made retroactive and the petitioner moves to reopen this case during the above-referenced 60-day period, petitioner may also amend the Petition as of right so as to properly plead all *Blakely*-based claims in this Court.

IT IS SO ORDERED this 19 day of March, 2009.



THE HONORABLE MARK D. CLARKE
U.S. Magistrate Judge

Submitted by:

/s/ Thomas J. Hester

Thomas J. Hester
Attorney for Petitioner

Lynn Larsen (by consent)
Attorney for Respondent